

Communities last a long time. This legislation can help them stay healthy and attractive...

section 36

Section 36 of the said Act is repealed and the following substituted therefor:

1) interpretation

In this section,

(a) "committee" means a property standards committee established under this section;

(b) "occupant" means any person or persons over the age of eighteen years in possession of the property;

(c) "officer" means a property standards officer who has been assigned the responsibility of administering and enforcing by-laws passed under this section;

(d) "owner" includes the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used whether on his own account or as agent or trustee of any other person or who would so receive the rent if such land and premises were let, and shall also include a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property;

(e) "property" means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property;

(f) "repair" includes the provision of such facilities and the making of additions or alterations or the taking of such action as may be required so that the property shall conform to the standards established in a by-law passed under this section.

2) adoption of policy statement

Where there is no official plan in effect in a municipality, the council of the municipality may, by by-law approved by the Minister, adopt a policy statement, containing provisions relating to property conditions.

3) standards of maintenance and occupancy

If,

(a) an official plan that includes provisions relating to property conditions is in effect in a municipality; or

(b) the council of a municipality has adopted a policy statement as mentioned in subsection 2, the council of the municipality may pass a by-law,

(c) for prescribing standards for the maintenance and occupancy of property within the municipality or within any defined area or areas and for prohibiting the occupancy or use of such property that does not conform to the standards;

(d) for requiring property that does not conform to the standards to be repaired and maintained to conform to the standards or for the site to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition;

(e) for prohibiting the removal from any premises of any sign, notice or placard placed thereon pursuant to this section or a by-law passed under the authority of this section.

4) inspection

When a by-law under this section is in effect, an officer and any person acting under his instructions may, at all reasonable times and upon producing proper identification, enter and inspect any property.

5) entry into dwelling place

An officer or any person acting under his instructions shall not enter any room or place actually used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 16 of *The Summary Convictions Act*.

6) notice of violation

If, after inspection, the officer is satisfied that, in some respect, the property does not conform to the standards prescribed in the by-law he shall serve or cause to be served by personal service upon, or send by prepaid registered mail to the owner of the property and all persons shown by the records of the registry office, the land titles office and the sheriff's office to have any interest therein a notice containing particulars of the non-conformity and may, at the same time, provide all occupants with a copy of such notice.

7) contents of order

After affording any person served with a notice provided for by subsection 6 an opportunity to appear before the officer and to make representations in connection therewith, the officer may make and serve or cause to be served upon or send by prepaid registered mail to such person an order containing,

(a) the municipal address or the legal description of such property;

(b) reasonable particulars of the repairs to be effected or a statement that the site is to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition and the period in which there must be a compliance with the terms and conditions of the order and notice that, if such repair or clearance is not so done within the time specified in the order, the municipality may carry out the repair or clearance at the expense of the owner; and

(c) the final date for giving notice of appeal from the order.

8) order to be sent to last known address

A notice or an order under subsection 6 or 7, when sent by registered mail shall be sent to the last known address of the person to whom it is sent.

9) substituted service

If the officer is unable to effect service under subsection 6 or 7, he shall place a placard containing the terms of the notice or order in a conspicuous place on the property, and the placing of the placard shall be deemed to be sufficient service of the notice or order on the owner or other persons.

10) registration of notice

An order under subsection 7 may be registered in the proper registry or land titles office and, upon such registration, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the date on which the order was served under subsection 7 and, when the requirements of the order have been satisfied, the clerk of the municipality shall forthwith register in the proper registry or land titles office a certificate that such requirements have been satisfied, which shall operate as a discharge of such order.

11) property standards committee

Every by-law passed under this section shall provide for the establishment of a property standards committee composed of such number of ratepayers in the municipality, not fewer than three, as the council considers advisable and who shall hold office for such term and on such conditions as may be prescribed in the by-law, and the council of the municipality, when a vacancy occurs in the membership of the committee, shall forthwith fill the vacancy.

12) member and employees of municipality, etc. not eligible

A member of the council of the municipality or an employee of the municipality or of a local board thereof is not eligible to be a member of a committee, but a teacher employed by the board of education or school board is not deemed to be an "employee" for the purpose of this section.

13) chairman

The members of the committee shall elect one of themselves as chairman, and when the chairman is absent through illness or otherwise, the committee may appoint another member to act as chairman *pro tempore* and shall make provision for a secretary for the committee, and any member of the committee may administer oaths.

14) remuneration

The members of the committee shall be paid such compensation as the council may provide.

15) filing of documents, etc.

The secretary shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the committee, and section 216 of *The Municipal Act* applies *mutatis mutandis* to such documents. R.S.O. 1970 c.284.

16) quorum and procedure

A majority of the committee constitutes a quorum, and the committee may adopt its own rules of procedure but before hearing an appeal under subsection 18 shall give notice or direct that notice be given of such hearing to such persons as the committee considers should receive such notice.

17) appeal to committee

When the owner or occupant upon whom an order has been served in accordance with this section is not satisfied with the terms or conditions of the order, he may appeal to the committee by sending notice of appeal by registered mail to the secretary of the committee within fourteen days after service of the order, and, in the event that no appeal is taken, the order shall be deemed to have been confirmed.

18) decision on appeal

Where an appeal has been taken, the committee shall hear the appeal and shall have all the powers and functions of the officer and may confirm the order to demolish or repair or may modify or quash it or may extend the time for complying with the order provided that, in the opinion of the committee, the general intent and purpose of the by-law and of the official plan or policy statement are maintained.

19) appeal to judge

The municipality in which the property is situate or any owner or occupant or person affected by a decision under section 18 may appeal to a judge of the county or district court of the judicial district in which the property is located by so notifying the clerk of the corporation in writing and by applying for an appointment within fourteen days after the sending of a copy of the decision, and,

(a) the judge shall, in writing, appoint a day, time and place for the hearing of the appeal and in his appointment may direct that it shall be served upon such persons and in such manner as he prescribes;

(b) the appointment shall be served in the manner prescribed; and

(c) the judge on such appeal has the same powers and functions as the committee.

20) effect of decisions

The order, as deemed to have been confirmed pursuant to subsection 17, or as confirmed or modified by the committee pursuant to subsection 18, or, in the event of an appeal to the judge pursuant to subsection 19, as confirmed or modified by the judge, shall be final and binding upon the owner and occupant who shall make the repair or effect the demolition within the time and in the manner specified in the order.

21) power of corporation to repair or demolish

If the owner or occupant of property fails to demolish the property or to repair in accordance with an order as confirmed or modified, the corporation in addition to all other remedies,

(a) shall have the right to demolish or repair the property accordingly and for this purpose with its servants and agents from time to time to enter in and upon the property; and

(b) shall not be liable to compensate such owner, occupant or any other person having an interest in the property by reason of anything done by or on behalf of the corporation under the provisions of this subsection.

22) certificate of compliance

Following the inspection of a property, the officer may, or on the request of the owner shall, issue to the owner a certificate of compliance if, in his opinion, the property is in compliance with the standards of a by-law passed under subsection 3, and the council of a municipality may prescribe a fee payable for such a certificate, where it is issued at the request of the owner.

23) enforcement

A by-law passed under the authority of this section may impose a penalty of not more than \$500 upon an owner for each day that he is in contravention of an order that is final and binding.

section 37 amended

1) When a by-law under section 36 is in force in a municipality, the council of the municipality may pass a by-law for providing for the making of grants or loans to the registered owners or assessed owners of lands in respect of which a notice has been sent under subsection 6 of section 36 to pay for the whole or any part of the cost of the repairs required to be done, or of the clearing, grading and levelling of the lands, on such terms and conditions as the council may prescribe. R.S.O. 1970, c. 349, S. 37(1); 1972, c. 118, s. 8(1); 1973, c. 168, s. 11.

2) The amount of any loan made under a by-law passed under this section, together with interest at a rate to be determined by the council, may be added by a clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made. R.S.O. 1970, c. 349, s. 37(2); 1972, c. 118, s. 8(2).

3) A certificate signed by the clerk of the municipality setting out the amount loaned to any owner under a by-law passed under this section, including the rate of interest thereon, together with a description of the land in respect of which the loan has been made, sufficient for registration, shall be registered in the proper registry or land titles office against the land, and, upon repayment in full to the municipality of the amount loaned and interest thereon, a certificate signed by the clerk of the municipality showing such repayment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the loan was made is discharged. R.S.O. 1970, c. 349, s. 37(3).

Now municipalities can pass maintenance and occupancy by-laws to cover all property

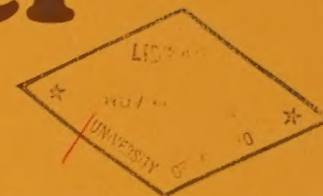
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General Publications
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Ministry of Housing

Hon. Sidney B. Handleman, minister
R. M. Warren, deputy minister



Community Renewal Branch
801 Bay Street, Toronto. 965-2826
J. F. Brown, director

Property Maintenance Standards: By-laws and Programs

a better place to live

The Confidence an owner has in the future of his property, and the area it is in, greatly affects the effort he makes to maintain it. And public policy can play a vital part in creating, sustaining, or destroying that confidence.

M. B. M. Lawson.
*The Maintenance of Property—
A Program for Ontario.*

Communities are the best known expression of how people feel collectively about one another. Just as pleasant, cheerful neighbourhoods suggest confident and proud neighbours, so do drab, deteriorating properties reflect a crisis of spirit among those who live there.

This pamphlet describes some new legislation for helping local governments ensure that the homes, shops, factories, institutions and other property that make up our communities stay fit and habitable over time.

On June 29, 1972, The Planning Act of Ontario was amended and broadened so that municipalities could pass by-laws prescribing minimum standards for the maintenance and occupancy of all property—even vacant property.

Significant as it is, the new legislation is *permissive* which means that it is up to each municipality to take advantage of it. Conscientiously administered, the property standards by-law is an incentive to people in every segment of the community, in every walk of life, to ensure that the inner environments of our neighbourhoods and downtowns—the things we see around us—truly reflect how we feel about ourselves.

all property please

In 1962, the Department of Municipal Affairs published *A Better Place To Live*. This report led to the enactment in 1964 of legislation permitting municipalities to pass by-laws prescribing standards for the maintenance and occupancy of residential property.

Since the legislation, there have been many requests from municipalities and organizations to broaden the provisions to cover all property. Lack of statutory permission in The Planning Act for encompassing non-residential property led some municipalities to meet this need through private acts. The City of Ottawa led the way in 1966.

In 1969, the Department retained the services of Mr. M. B. M. Lawson who was asked to assess the adequacy of present maintenance measures, to recommend programs necessary to meet today's demands, and to suggest whatever amendments to The Planning Act would be necessary to accomplish this.

The study resulted in the publication in 1970 of *The Maintenance of Property—A Program for Ontario*. Among the report's 20 recommendations was the proposal that sections 36 and 37 of The Planning Act (R.S.O. 1970, chapter 349) be expanded to include all property—commercial, industrial, institutional and public as well as residential.

amending the act

Sections 36 and 37 of The Planning Act were amended accordingly to reflect the main proposals of the Lawson report as well as constructive comments from organizations and individuals throughout Ontario. The principal changes are:

- The scope of the authority to adopt maintenance and occupancy by-laws is broadened to include all types of property, including vacant property.

- Previously, only municipalities having an official plan with provisions relating to housing conditions could pass a by-law. Now, municipalities without official plans may adopt a property standards by-law upon preparing an appropriate policy statement relating to property conditions. The statement requires ministerial approval.

- The approval of the Ontario Municipal Board to these by-laws is no longer required.

- Orders issued by property standards officers may be appealed to a property standards committee and, further, to a county court judge.

- The repayment period for loans is changed from five years to a period to be determined by municipal councils.

property maintenance and planning

Planning programs with conventional implementation measures such as zoning by-laws, buildings by-laws and subdivision controls can go a long way towards encouraging good development practices and helping communities look after what they have. But they offer no guarantee that today's quality will be maintained in a community over years of use by succeeding generations.

The idea of government action to help ensure reasonable standards of property maintenance has been increasingly accepted in recent years as part of a general concern over the quality of the environment.

Obviously, no one government—provincial or municipal—can do the whole job itself. And ultimately, a great deal depends upon the pride and interest that residents take in their community. But it has become more and more apparent that some rules must be laid down, some standards of performance prescribed and enforced, if the values originally built into the physical community are to be sustained and protected.

the policy statement

Whether as part of an official plan or separately, the adoption of a policy statement on property maintenance is a pre-requisite for the council of the municipality that wishes to pass a by-law prescribing such standards within the municipality or within any defined area or areas.

Before undertaking this, municipalities should discuss their proposals with the staff of the Community Renewal Branch and Official Plans Branch, Ministry of Housing. Since the policy statement requires the Minister's approval, staff will want to ensure that it genuinely reflects the community's maintenance needs.

Although it is a broad statement of public intent, they will also require some assurance that the municipality is aware of the implications of its commitment—that it is willing and able to assume responsibility for preparing, administering and enforcing a property standards by-law.

Early discussion of these and related procedural matters will expedite approval and adoption of policy statements.

some policy suggestions

The specific provisions of official plans or policy statements must be determined for the individual community on the basis of the local situation. But certain suggestions can be made about the type of information that might be appropriate. Here are some:

Purpose Under this heading there might be a general statement to the effect that it is the policy of the community to encourage the development and maintenance of an efficient and pleasant environment for living, working, shopping, and recreation. It might go on to point out—if this, in fact, is the case—that the quality of property in the community is generally high with adequate community facilities and amenities.

Identification The municipality should have adequate knowledge of property which falls below reasonable standards. This will assist in preparing a by-law appropriate to the local situation.

Administration The policy statement should indicate the responsibility centre for the program.

Implementation The measures to be used generally in achieving a property maintenance program could also be stated. Among these:

- an education and public relations program to show people the benefits of continued property maintenance, together with information showing what improvements can be made without increasing assessment.

- consistent enforcement of the existing building, zoning, health and fire prevention by-laws.

- the enactment of a maintenance and occupancy by-law pursuant to Section 36 of The Planning Act.

the municipality's role

The active maintenance of municipally-owned offices, works yards, parks and institutions provides a visible example of municipal co-operation and confidence.

For its part, the municipality should also be prepared to undertake whatever public works improvements are necessary throughout the community such as the provision of parks, the widening or resurfacing or closing of roads, off-street parking and the improvement of water and sewer facilities.

While these are considered routine civic projects, they are nevertheless vital to the success of the property standards program and should, wherever possible, be undertaken in conjunction with it.

preparing the by-law

Despite the lack of experience and experimentation in Ontario, there are some general guides for preparing property maintenance by-laws.

Many of the requirements covered in existing housing standards, for example, should be considered for non-residential properties. These include wiring, heating, plumbing, structure, light and ventilation, fire protection, sanitation, accessory buildings, pest prevention and general site conditions.

Particularly important for non-residential property would be the maintenance of parking and storage areas, the safety of buildings, landscaping, fencing and signs.

Certainly one of the continuing obstacles to good community housekeeping is the junk yard. Many municipalities have zoning by-laws prohibiting or restricting them. But there are numerous industrial activities where so-called junk yards perform necessary functions such as salvage, used-building-materials storage and automobile wrecking. Some municipalities already have by-laws providing for the licensing of junk or salvage yards. Licenses can carry with them strict requirements for screening, stockpiling, height of storage, fire protection and the location of gates in relation to residential property. All such relevant standards could be transferred to a property standards by-law.

Rivalling junk yards as visual pollutants are abandoned automobiles. If the problem of derelict auto hulks is acute, local sites could be established where they could be collected for crushing or for further handling, processing and eventual recycling into the industrial stream.

Again, it is essential that positive provisions for administration and enforcement be included in a property standards by-law. These will vary among municipalities. Generally, however, the by-law must designate the person, persons or agency responsible for administration, the responsibilities and rights of affected parties—owner, tenant and municipality—and all requirements for such matters as hearings, appeals, repair and prohibition orders, placarding, penalties and enforcement.

a check list

Here is a summary of suggested steps for bringing into force a by-law prescribing standards of maintenance and occupancy of property.

- Discuss with the Community Renewal Branch and The Official Plans Branch the procedural requirements for obtaining the necessary approvals.

- Prepare a proposed amendment to the official plan, if one is in effect, or a policy statement on property conditions for discussion with staff of the Community Renewal Branch and Official Plans Branch. (This should be done preferably before it is formally recommended to the planning board and adopted by city council.)

- Forward proposed amendment to the Minister.

- Prepare a draft of a maintenance and occupancy by-law and discuss it with the Ministry.

- Enact the by-law.

- Establish administration arrangements.

summing up

The Lawson Report warned of the dangers of property neglect, not just to the individual but to the community at large. Ultimately, urban renewal may have to be decided upon—at considerable public expense—as the cure for the problem, says the report, since blight weakens the community's ability to operate productively and effectively.

"The tax base becomes weaker, the costs climb higher, the economy declines and people suffer. But the situation can

largely be prevented from developing if effective maintenance measures are carried out, supported by clear public policies."

The new legislation is aimed in that direction. It is universal in coverage. It encourages municipalities to deal firmly with the problems of continuing maintenance. And it reinforces the efforts of the great majority of people who want to keep Ontario's homes, shops, institutions and other property in good condition.

